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KARNATAKA LEGISLATIVE ASSEMBLY

NOTIFICATION

No. 12150.—L.A., Bangalore, dated 12th February 1975.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Karnataka Legislative Assembly, the Speaker has been pleased to order the publication in the *Karnataka Gazette of* **The Karnataka Private Educational Institutions (Discipline and Control) Bill, 1975.** together with the Statement of Objects and Reasons relating thereto and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

THE KARNATAKA PRIVATE EDUCATIONAL INSTITUTIONS (DISCIPLINE AND CONTROL) BILL, 1975.

(L.A. Bill No. 7 of 1975)

A Bill to provide for better discipline in and control over the Private Educational Institutions in the State which are recognised by the State Government.

Whereas in order to maintain the standards of education it is expedient to provide for better discipline in and control over the Private Educational Institutions in the State which are recognised by the State Government;

And whereas the Karnataka Private Educational Institutions (Discipline and Control) Ordinance, 1973 was promulgated and later replaced by the Mysore Private Educational Institutions (Discipline and Control) Act, 1973 for the purpose;

And whereas it is expedient further to provide for certain other matters also to ensure better discipline and control in order that standards of education are maintained;

Be it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Karnataka Private Educational Institutions (Discipline and Control) Act, 1975.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force on the twenty-fourth day of December 1974.

2. *Definitions.*—In this Act unless the context otherwise requires,—

(*a*) 'Board of Management' means the individual or the body of individuals entrusted with the management and administration of a private educational institution;

(*b*) 'employee' means a person employed by a private educational institution either as a teacher or in any other capacity;

(*c*) 'Manager' in relation to a private educational institution means the person, by whatever name called, who under the rules or regulations of the private educational institution is the chief executive officer of the institution entrusted with the management of the affairs of the institution;

(*d*) 'private educational institution' means an educational institution which is not owned by the State Government or the Central Government, a local authority or, any other authority designated or sponsored by the State Government or the Central Government or a local authority but which is recognised by the State Government and includes a college affiliated to the Karnatka University or the Mysore University and a constituent college of the Bangalore University not similarly owned but does not include a University College.

3. *Power of State Government to make model rules and adoption of such rules by private educational institution.*—(1) Subject to the other provisions of this Act, the State Government shall, after previous publication of the draft for not less than one month, make, by notification, model rules in respect of maters relating to the code of conduct and the conditions of service of employees.

(2) Every private educational institution shall—

(*a*) if it has not before the date of commencement of this Act made rules on the subject, adopt the model rules; and

(*b*) if it has made such rules, modify the rules to bring them in conformity with the model rules.

(3) within three months from the date the model rules are notified by the State Government every private

cational institution shall send intimation of having ac ted the model rules or modified its rules to,—

lore, (i) the Director of Technical Education, Banga- the private educational institution is an engineering or oth technical institution ;

) the Director of Pre-University Education, Bangalo if such institution is an independent junior college ;

(iii) he Director of Collegiate Education, Bangalore, if such inst itution is a college other than a institution or college referr to in clauses (i) and (ii);

(iv) t Director of Public Instruction, Bangalore or to an office not below the rank of a District Deputy Director of Pu ic Instruction as may be specified by the State Governm t, if such institution is a pre-primary, primary or secon ary school or high school upgraded as a junior college or n institution for teachers' training at all levels including co egiate education ; and

(v) the au ority specified in this behalf by the State Government, f such institution is an institution or college, other than th se referred to in clauses (i) to (iv).

(4) If a private educational institution fails to take action as required by sub-section (2), the model rules shall be deemed to have be n adopted by such institution and they shall be the rules overning its employees.

4. *Schedule of appointments to be maintained.*—(1) Every private educational institution shall maintain a schedule of appointments indicating therein number of persons in its employment, the qualifications of each employee, the grades of pay and such other particulars as may be prescribed.

(2) Within three months from the date of commencement of this Act and within a like period after any alteration in the schedule is made, a private educational institution shall submit a copy of the schedule of appointments or

alterations made therein, as the case may be, to the appropriate authority referred to in sub-section (3) of section 3.

5. *Rules and Schedules to be opened for inspection.*—A copy of the rules and the Schedule of appointments for the time being in force shall be kept at the office of the private educational institution and shall, during office hours, be open, free of charge, to inspection by any employee of that private educational institution.

6. *Termination of service and procedure for imposing penalties.*—(1) No employee shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges and where it is proposed after such inquiry to impose on him such penalty, until he has been given a reasonable opportunity of making representations on the penalty proposed, but only on the basis of the evidence adduced during such inquiry :

Provided that the provisions of this sub-section shall not apply where an employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.

(2) No order imposing any penalty other than those referred to in sub-section (1) shall be imposed on an employee except after,—

(*a*) the employee is informed in writing of the proposal to take action against him and of the allegations on which it is proposed to be taken and given an opportunity to make any representation which he may wish to make ; and

(*b*) such representation if any, is taken into consideration.

7. *Communication of orders.*—Every order of the Board of Management terminating the services of an employee or imposing a penalty or otherwise affecting his conditions of service to his prejudice shall be communicated in writing to the employee.

8. *Appeals.*—(1) Any employee aggrieved by an order of the Board of Management may within three months from the date of communication of the order appeal against such order to the Educational Appellate Tribunal Constituted under section 10. The provisions of sections 4 and 5 of the Limitation Act, 1963 shall be applicable to such appeal.

(2) Notwithstanding anything contained in sub-section (1), any employee aggrieved by an order of dismissal or removal made by the Board of Management at any time within one year before the date of commencement of this Act may also appeal against such order within three months from such date.

9. *Court fees.*—Notwithstanding anything contained in the Karnataka Court fees and Suits Valuation Act, 1958 every appeal under this Act to the Educational Appellate Tribunal shall bear a court fee stamp of twenty-five rupees.

10. *Tribunal.*—(1) The State Government shall, by notification, constitute one or more Educational Appellate Tribunals for the adjudication of appeals preferred under section 8 and where more than one Tribunal is constituted, the State Government shall specify in the notification the limits to which the territorial jurisdiction of each Tribunal extends.

(2) The Educational Appellate Tribunal shall consist of one person who is or has been a judicial officer not below the rank of a District Judge:

Provided that pending constitution of the Educational Appellate Tribunal under sub-section (1), the District

Judge of each district shall function as the Educational Appellate Tribunal of the district.

(3) All expenses incurred in connection with the Educational Appellate Tribunal shall be borne from out of the Consolidated Fund of the State.

(4) The Educational Appellate Tribunal shall,—

(*a*) for the purposes of the disposal of the appeals referred under this Act have the same powers as are vested in a court of appeal under the Code of Civil Procedure, 1908 (Central Act 5 of 1908);

(*b*) have the power to stay the operation of the order appealed against on such terms as it may think fit;

(*c*) if, after taking such fresh evidence as it considers necessary, is satisfied from the materials on record that—

(i) the order of dismissal or removal was not justified, it may set aside the order and direct reinstatement of the employee on such terms and conditions (including payment of salary and other allowances from the date of dismissal till the date of reinstatement and costs, if any) as it thinks fit or give such other relief to the employee including the award of any lesser punishment in lieu of dismissal or removal as the circumstances of the case may require;

(ii) the punishment [other than those specified in sub-clause (i)] imposed was not justified, it may set aside the punishment imposed or give such other relief to the employee including the award of any lesser punishment in lieu of the punishment imposed as the circumstances of the case may require; and

(*d*) for the purpose of executing its own orders have the same powers as are vested in a court executing a decree of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) as if such orders were decrees of a civil court.

11. *Jurisdiction of civil courts.*—No civil courts shall have jurisdiction in respect of any matter in relation to the Educational Appellate Tribunal is empowered by this Act to exercise any power.

12. *Penalties.*—The Manager or any other person who contravenes any of the provisions of this Act or fails or omits to carry out any order made by the Educational Appellate Tribunal shall be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

13. *Cognisance of offences.*—No court shall take cognisance of any offence under this Act except with the previous sanction of an officer authorised by the State Government in this behalf:

Provided that where the officer authorised fails to inform the applicant of his decision on the application for sanction within a period of three months the sanction sought shall be deemed to have been accorded.

14. *Enquiries and Proceedings.*—All enquiries and proceedings before the Educational Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

15. *Power to make rules.*—(1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before, the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any

modification in the rule or both Houses agree that this rule should not be made, the rule shall from the date on which the modification or annulment is notified by the State Government in the Official Gazette have effect only in such modified form or of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. *Transfer of pending proceedings.*—All appeals and all proceedings pending before the Educational Appellate Tribunal constituted under the Mysore Private Educational Institutions (Discipline and Control) Act, 1973, immediately before the date of commencement of this Act shall stand transferred to the Educational Appellate Tribunal under this Act and shall be disposed of by such Tribunal in accordance with the provisions of the Mysore Private Educational Institutions (Discipline and Control) Act, 1973 (Karnataka Act 21 of 1973) as if the said Act had not been repealed.

17. *Repeal of Karnataka Ordinance No.* 14.—(1) The Karnataka Private Educational Institutions (Discipline and Control) Ordinance, 1974 (Karnataka Ordinance No. 14 of 1974) is hereby repealed.

(2) Notwithstanding such repeal and save as otherwise provided in section 16 anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Karnataka Private Educational Institutions (Discipline and Control) Bill, 1974 was introduced in the Karnataka Legislative Assembly during the last session on 19th August 1974. In view of other important and urgent legislative business, this Bill could not be taken up. Many employees aggrieved by the orders of removal or dismissal made by the Managements represented to Government the hardship caused to them. Besides several Teachers Associations also urged that an Ordinance may be promulgated pending passing of the Bill. With a view to prevent victimisation of teachers, the Karnataka Private Educational Institutions (Discipline and Control) Ordinance 1974 was promulgated. The Bill seeks to replace the Ordinance.

FINANCIAL MEMORANDUM

Under section 10 of the Bill, it is proposed to constitute one or more Private Educational Tribunals for adjudication of appeals referred under section 8 and where more than one Tribunal is constituted, the State Government will specify the limits to which the territorial jurisdiction of the Tribunal will extend. The Educational Appellate Tribunal will consist of one person who is or has been a judicial officer not below the rank of a District Judge provided that pending constitution of the Educational Appellate Tribunal, the District Judge of each District will function as the Educational Appellate Tribunal of that District.

It is considered sufficient if the District Judges of Districts function as the Educational Appellate Tribunals as at present. No additional cost is, therefore, involved in the administration of this measure and establishment of Educational Appellate Tribunals at present. If and when the number of appeals preferred increases, the question of appointing a separate Educational Appellate Tribunal/ Tribunals with suitable subordinate staff would be considered by the Government in due course.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 4.—Sub-clause (1) of this clause empowers the State Government to prescribe by rules any other particulars to be furnished by a Private Educational Institution.

Clause 15.—This clause empowers the State Government to make rules subject to the condition of previous publication, to carry out the purpose of the Act.

The rules made by the State Government will be laid before both the Houses of the State Legislature and are subject to modification by the Legislature.

The proposed delegation of legislative power is of a normal character.

M. MALLIKARJUNA SWAMY,

Te. HANUMANTHAPPA,
Secretary.

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